

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AML IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 6:20-cv-1104
v.)	
)	
MACY’S, INC.)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

AML IP, LLC (“AML”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 7,177,838 (“the ‘838 patent”) (referred to as the “Patent-in-Suit”) by Macy’s, Inc.

I. THE PARTIES

1. Plaintiff AML is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, Macy’s, Inc. (“Macy’s”) is a corporation existing under the laws of the State of Delaware, with a principal place of business located at 2901 S Capital Of Texas Hwy, Ste 60, Austin, TX 78746. On information and belief, Macy’s sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court also has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. § 1332(a)(1) because Defendant is a corporation organized under the laws of the State of Delaware with a principal, physical place of business at 2901 S Capital Of Texas Hwy, Ste 60, Austin, TX 78746. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

A. Infringement of the '838 Patent

7. On February 13, 2007, U.S. Patent No. 7,177,838 ("the '838 patent", attached as Exhibit A) entitled "Method and Apparatus for Conducting Electronic Commerce Transactions Using Electronic Tokens" was duly and legally issued by the U.S. Patent and Trademark Office. AML IP, LLC owns the '838 patent by assignment.

8. The '838 patent relates to a novel and improved methods and apparatuses for conducting electronic commerce.

9. Macy's maintains, operates, and administers micropayment products and services that facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens that infringes one or more claims of the '838 patent, including one or more of claims 1-28, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '838 Patent into service (i.e., used them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

10. Support for the allegations of infringement may be found in the following preliminary table:

US7177838 B1

Macy's Star Rewards

1. A method of conducting electronic commerce over the Internet using micropayments, the method comprising:





**Now, earn
on every
purchase**

*Except Gifts Cards,
services & fees*

STAR REWARDS



© 2020 macys.com is a registered trademark.

<https://www.macys.com/p/credit-service/benefits/>

Macy's Star Rewards has a method of conducting electronic commerce over the Internet using micropayments.

The reference includes subject matter disclosed by the claims of the patent after the priority date.

US7177838 B1

Macy's Star Rewards

opening a user account
with a vendor for a user;



Secure Sign In

Returning customer

Email Address

Password

Case sensitive

[Show](#)

☐ Remember Me [i](#)

[Forgot Your Password?](#)

Sign In

No account yet?

Create Account

[<https://www.macys.com/account/signin>](https://www.macys.com/account/signin)

The reference describes [opening a user account with a vendor for a user](#).

US7177838 B1

Macy's Star Rewards

issuing one or more electronic tokens from the vendor to the user account, wherein no physical manifestation, other than a database entry, of the user account occurs, each electronic token having a value of at least a fraction of a dollar;

8. Earning Points at Macy's: Cardholders at every status and non-cardholders accumulate points on Rewards Earning Purchases at Macy's, macys.com, and Macy's Backstage. A "Rewards Earning Purchase" is a purchase of merchandise at Macy's, macys.com, and Macy's Backstage (less any discounts (excluding employee and new Account discounts) and adjustments). Rewards Earning Purchases exclude: Macy's Gift Cards, services (e.g., Beauty Box and other subscription services, restaurants, salon services, alterations, etc.), any department that does not use a Macy's point of sale register, fees, sales tax, and any portion of your purchase paid with Star Money, Macy's Rewards Cards (including Macy's Money, Happy Returns Cards, and merchandise only certificates) or Macy's Gift Cards. **Cardholders will not accumulate points if you pay using an electronic or virtual wallet, even if you are using a Macy's Account in an electronic or virtual wallet.**

<https://www.customerservice-macys.com/app/answers/detail/a_id/8303>

The reference describes issuing one or more electronic tokens from the vendor to the user account, wherein no physical manifestation, other than a database entry, of the user account occurs, each electronic token having a value of at least a fraction of a dollar.

US7177838 B1

Macy's Star Rewards

providing products and services that may be purchased from the vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens;

d. Once an Account accumulates 1,000 points, a \$10 Star Money reward is issued. You will be given the option to redeem your available Star Money rewards toward a qualifying purchase at Macy's, Macy's Backstage, or macys.com when you check-out with your Membership. Star Money rewards may be used to purchase merchandise at Macy's, macys.com, and Macy's Backstage. Star Money rewards may not be exchanged for cash, used to purchase Macy's Gift Cards, used for services (e.g., Beauty Box and other subscription services, restaurants, salon services, alterations, etc.), used in any department that does not use a Macy's point of sale register, used for any purchase that will be shipped outside the U.S., or used as payment on the Account. To redeem a Star Money reward on orders of furniture and mattresses on macys.com, you must call Macy's Customer Service. Star Money rewards may not be redeemed in a Macy's store if you use an electronic or virtual wallet or self-checkout. Each Star Money reward is valid for 30 calendar days from issuance. Unused Star Money rewards are forfeited 30 calendar days after issuance, at midnight Eastern Time on the expiration date. When a Star Money reward is issued during a purchase at a store register, the register receipt will include notification that the Star Money was issued. If we have a valid email address for the Cardholder, we will also send an email notification. When pending points become actual points as described in section 8b, or points earned on purchases outside Macy's on a Macy's American Express account are added to your outstanding points balance and those points cause a Star Money reward to be issued, if we have a valid email address for the Cardholder, we will send an email notification. If we don't have a valid email address on file, we may choose to notify you through another method.

<https://www.customerservice-macys.com/app/answers/detail/a_id/8303>

The reference describes providing products and services that may be purchased from the vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens.

US7177838 B1

Macy's Star Rewards

permitting the user to select, at any participating vendor web site, a subset of the products and services for purchase from the vendor;

d. Once an Account accumulates 1,000 points, a \$10 Star Money reward is issued. You will be given the option to redeem your available Star Money rewards toward a qualifying purchase at Macy's, Macy's Backstage, or macys.com when you check-out with your Membership. Star Money rewards may be used to purchase merchandise at Macy's, macys.com, and Macy's Backstage. Star Money rewards may not be exchanged for cash, used to purchase Macy's Gift Cards, used for services (e.g., Beauty Box and other subscription services, restaurants, salon services, alterations, etc.), used in any department that does not use a Macy's point of sale register, used for any purchase that will be shipped outside the U.S., or used as payment on the Account. To redeem a Star Money reward on orders of furniture and mattresses on macys.com, you must call Macy's Customer Service. Star Money rewards may not be redeemed in a Macy's store if you use an electronic or virtual wallet or self-checkout. Each Star Money reward is valid for 30 calendar days from issuance. Unused Star Money rewards are forfeited 30 calendar days after issuance, at midnight Eastern Time on the expiration date. When a Star Money reward is issued during a purchase at a store register, the register receipt will include notification that the Star Money was issued. If we have a valid email address for the Cardholder, we will also send an email notification. When pending points become actual points as described in section 8b, or points earned on purchases outside Macy's on a Macy's American Express account are added to your outstanding points balance and those points cause a Star Money reward to be issued, if we have a valid email address for the Cardholder, we will send an email notification. If we don't have a valid email address on file, we may choose to notify you through another method.

<https://www.customerservice-macys.com/app/answers/detail/a_id/8303>

The reference describes permitting the user to select, at any participating vendor web site, a subset of the products and services.

US7177838 B1

Macy's Star Rewards

computing at the participating vendor web site a total price for the selected subset of the products and services in units of electronic tokens;

d. Once an Account accumulates 1,000 points, a \$10 Star Money reward is issued. You will be given the option to redeem your available Star Money rewards toward a qualifying purchase at Macy's, Macy's Backstage, or macys.com when you check-out with your Membership. Star Money rewards may be used to purchase merchandise at Macy's, macys.com, and Macy's Backstage. Star Money rewards may not be exchanged for cash, used to purchase Macy's Gift Cards, used for services (e.g., Beauty Box and other subscription services, restaurants, salon services, alterations, etc.), used in any department that does not use a Macy's point of sale register, used for any purchase that will be shipped outside the U.S., or used as payment on the Account. To redeem a Star Money reward on orders of furniture and mattresses on macys.com, you must call Macy's Customer Service. Star Money rewards may not be redeemed in a Macy's store if you use an electronic or virtual wallet or self-checkout. Each Star Money reward is valid for 30 calendar days from issuance. Unused Star Money rewards are forfeited 30 calendar days after issuance, at midnight Eastern Time on the expiration date. When a Star Money reward is issued during a purchase at a store register, the register receipt will include notification that the Star Money was issued. If we have a valid email address for the Cardholder, we will also send an email notification. When pending points become actual points as described in section 8b, or points earned on purchases outside Macy's on a Macy's American Express account are added to your outstanding points balance and those points cause a Star Money reward to be issued, if we have a valid email address for the Cardholder, we will send an email notification. If we don't have a valid email address on file, we may choose to notify you through another method.

<https://www.customerservice-macys.com/app/answers/detail/a_id/8303>

The reference describes computing at the participating vendor web site a total price for the selected subset of the products and services in units of electronic tokens.

US7177838 B1


Macy's Star Rewards

authorizing a purchase transaction at the participating vendor web site without requiring any third party authentication and a physical manifestation of the user account; and

d. Once an Account accumulates 1,000 points, a \$10 Star Money reward is issued. You will be given the option to redeem your available Star Money rewards toward a qualifying purchase at Macy's, Macy's Backstage, or macys.com when you check-out with your Membership. Star Money rewards may be used to purchase merchandise at Macy's, macys.com, and Macy's Backstage. Star Money rewards may not be exchanged for cash, used to purchase Macy's Gift Cards, used for services (e.g., Beauty Box and other subscription services, restaurants, salon services, alterations, etc.), used in any department that does not use a Macy's point of sale register, used for any purchase that will be shipped outside the U.S., or used as payment on the Account. To redeem a Star Money reward on orders of furniture and mattresses on macys.com, you must call Macy's Customer Service. Star Money rewards may not be redeemed in a Macy's store if you use an electronic or virtual wallet or self-checkout. Each Star Money reward is valid for 30 calendar days from issuance. Unused Star Money rewards are forfeited 30 calendar days after issuance, at midnight Eastern Time on the expiration date. When a Star Money reward is issued during a purchase at a store register, the register receipt will include notification that the Star Money was issued. If we have a valid email address for the Cardholder, we will also send an email notification. When pending points become actual points as described in section 8b, or points earned on purchases outside Macy's on a Macy's American Express account are added to your outstanding points balance and those points cause a Star Money reward to be issued, if we have a valid email address for the Cardholder, we will send an email notification. If we don't have a valid email address on file, we may choose to notify you through another method.

<https://www.customerservice-macys.com/app/answers/detail/a_id/8303>

The reference describes authorizing a purchase transaction at the participating vendor web site without requiring any third party authentication and a physical manifestation of the user account.

US7177838 B1	Macy's Star Rewards
<p>if the user account contains electronic tokens having a value equal to or greater than the total price, permitting the user to purchase the selected subset of the products and services without requiring the user to disclose personal information to the vendor, and subtracting the total price from the user account, wherein the purchase transaction is not subject to a minimum processing fee.</p>	<div data-bbox="516 338 625 426">  </div> <p data-bbox="662 338 1235 590">Your rewards rack up as points that turn into Star Money. Once you hit 1,000 points, we'll send you \$10 in Star Money to spend on anything at Macy's except Gift Cards, services & fees. Just be sure to spend it before it expires (within 30 days).</p> <p data-bbox="467 625 1133 657"><https://www.macys.com/p/credit-service/benefits/></p> <p data-bbox="467 699 1601 877"><u>The reference describes if the user account contains electronic tokens having a value equal to or greater than the total price, permitting the user to purchase the selected subset of the products and services without requiring the user to disclose personal information to the vendor, and subtracting the total price from the user account, wherein the purchase transaction is not subject to a minimum processing fee.</u></p>

These allegations of infringement are preliminary and are therefore subject to change.

11. Macy's has and continues to induce infringement. Macy's has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., micropayment products and services that facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens) such as to cause infringement of one or more of claims 1–28 of the '838 patent, literally or under the doctrine of equivalents. Moreover, Macy's has known of the '838 patent and the technology underlying it from at least the date of issuance of the patent.

12. Macy's has and continues to contributorily infringe. Macy's has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., micropayment products and services that

facilitate purchases from a vendor at micropayment levels, wherein prices for the products and services are listed in units of electronic tokens) and related services such as to cause infringement of one or more of claims 1–28 of the ‘838 patent, literally or under the doctrine of equivalents. Moreover, Macy’s has known of the ‘838 patent and the technology underlying it from at least the date of issuance of the patent.

13. Macy’s has caused and will continue to cause AML damage by direct and indirect infringement of (including inducing infringement of) the claims of the ‘838 patent.

IV. JURY DEMAND

AML hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, AML prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the ‘838 patent through Macy’s.com, or a website linked thereto;
- b. award AML damages in an amount sufficient to compensate it for Defendant’s infringement of the ‘838 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award AML an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award AML its attorneys’ fees, expenses, and costs incurred in this action;

- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award AML such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

A handwritten signature in blue ink, appearing to read 'WPR', with a large, stylized flourish underneath.

William P. Ramey, III
Texas State Bar No. 24027643
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

Attorneys for AML IP, LLC